

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-9 are in this Application.

Claims 1-9 stand rejected under 35 U.S.C. § 102.

With this response, claims 1-4 and 6-9 are cancelled, claim 5 is amended, and claims 10 - 14 are added.

Amendments To The Specification

The specification was objected for not stating that two of the patent applications mentioned under the heading of "cross reference to related applications" matured into patents. This is now corrected.

35 U.S.C. § 102 Rejections

Claims 1-4, and 6 to 9

Claims 1-4 and 6-9 are cancelled with the present response, and thus, the rejections against them are moot. Nevertheless, Applicants choose to discuss the patentability of some of them.

Claims 3 to 7 are rejected under 35 U.S.C. 102(b) as being anticipated by the Fromer et al. article "Ultrarapid Subthreshold Stimulation for Termination of Atrioventricular Node Reentrant Tachycardia" (hereinafter "Fromer"). Applicants respectfully traverse. Claims 3, 4, 6, and 7 are cancelled, and claim 5 is amended.

Claim 3 is identical to claim 3 of U.S. Patent No. 7,062,318, and therefore is cancelled herewith. Nevertheless, Applicants traverse the rejection.

Claim 3 includes the limitation of reducing the output of the chamber, not found in Fromer. In Fromer it may be expected that when tachycardia is stopped, the output of the affected chamber will increase.

Claims 3 to 7 are also rejected under 35 U.S.C. 102(b) as being anticipated by Hill et al., US 5,411,531 (hereinafter "Hill").

Claim 3 includes the limitation of "applying to a portion of said heart chamber a non-excitatory stimulus". Hill does not describe applying a non-excitatory stimulus to a portion of a heart chamber. Hill describes stimulating the A-V nodal fat pad, which is not part of any heart chamber.

Claims 1, 2, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor et al., US 5,913,876 (hereinafter "Taylor-2"). These claims are now granted in U.S. Patent No. 7,062,318, and therefore are cancelled herewith. Nevertheless, Applicants respectfully traverse the rejection. Applicants respectfully submit that Taylor-2 is not prior art.

The present application is a continuation of a continuation of a § 371 of PCT Patent Application No. PCT/IL97/00012, filed January 8, 1997. Therefore, the present application is entitled at least to the date of January 8, 1997.

Taylor-2 is a continuation of USSN 08/887,527 filed July 3, 1997, which is later than the date of the present application. Said USSN 08/887,527 is a CIP of USSN 08/603,411, filed April 20, 1996, now US 5,651,378 (hereinafter "Taylor-1").

Thus, Taylor-2 is prior art, at the most, only as for the disclosure it has in common with Taylor-1, and even then only with respect to material that was not disclosed in the earlier priority documents of the present applications.

Taylor-1 does not teach applying a non-excitatory stimulus (or any other kind of stimulus) "to the heart or to a portion thereof". In fact, the cardiac plexus recited by the Examiner as part of the heart, on which a stimulation electrode is located in Taylor-2, is not mentioned at all in Taylor-1.

Thus, Applicants respectfully submit that Taylor-2 is not prior art, and that no *prima facie* case of anticipation has been set forth.

Claims 5, and 10-14

Claim 5 is currently amended to include the limitation that the heart control apparatus is "configured for applying a first stimulus to a first portion of the heart, said first stimulus having a first effect on the biomechanical behavior of the first portion of the heart, and a second stimulus to a second portion of the heart, said second stimulus having a second effect on the biomechanical behavior of the second portion of the heart, said first and second effects being different from each other".

Claim 5 and new claims 10-14 depending thereon are supported at least by the paragraph bridging pages 43 and 44 of the application.

Applicants respectfully submit that none of the prior art of record describes, suggests, or even hints at the above-mentioned limitation.

New claims 10-14 are all dependent on independent claim 5, and thus, Applicants respectfully submit that they are patentable at least in virtue of being dependent on a patentable base claim.

In view of the above amendments and remarks it is respectfully submitted that claims 5, and 10 to 14 are now in condition for allowance. A prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

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